United Nations S/2018/467

Security Council

Distr.: General
18 May 2018
English
Original: French

Letter dated 16 May 2018 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter dated 15 May 2018 addressed to you from Mr. Abulrahman Mustafa, President of the National Coalition of Syrian Revolutionary and Opposition Forces (see annex).

I should be grateful if you have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) François **Delattre**

18-08115 (E) 220518 250518

Please recycle

Annex to the letter dated 16 May 2018 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council

[Original: English]

On behalf of the Syrian people, the Syrian National Coalition expresses its sincere gratitude and appreciation to the United Nations for its honourable position in support of the Syrian Revolution and the Syrian people in the face of the crimes being committed by the Assad regime, its allies and allied militias.

It is with deep concern that I call your attention to the Assad regime's recent passage of Law No. 10,* which mandates the re-zoning of residential properties in several districts in Syria where civilians were forcibly displaced from their homes by siege, aerial bombardment or arbitrary detention by the regime and its allies. Following a series of increasingly punitive property laws, Law No. 10 calls upon property owners to prove ownership of their property within 30 days or risk forfeiting their individual property rights. Given that millions of Syrians are displaced, with no prospect of safe return until measures are taken to protect civilians, Law No. 10 is tantamount to arbitrary confiscation of property and denial of individual property rights, as protected by the Universal Declaration of Human Rights. Law No. 10 will further cement the regime's policy of demographic change and mass forced displacement.

On 17 and 18 April 2018, the Syrian National Coalition held a workshop to discuss the consequences of Law No. 10 for the Syrian people, including the millions of refugees. The workshop was attended by the Coalition's legal committee, judges, lawyers, administrators, constitutional experts, technical experts from the Association of Engineers and representatives of technical departments in municipalities and the real-estate register office. All concluded that Law No. 10 was unconstitutional and would be impossible for Syrians to follow without risking their lives. Law No. 10 only serves to ensure the permanent displacement of Syrians and sends the message that the regime will never honour our right to return.

Owing to the urgent need to protect Syrians from this law as a consolidation of demographic change, we urge you to:

(a) Condemn Law No. 10 as illegitimate and in violation of international law;

(b) Demand an immediate cessation of hostilities throughout Syria and the full protection of civilians. Without serious efforts to protect civilians, the regime will only continue to seek a military solution;

(c) Urge full support for accountability. Accountability for all war crimes, including forced displacement, is necessary. We urge you to call upon States to support the International, Impartial and Independent Mechanism for the Syrian Arab Republic and to encourage the General Assembly to take the next step by establishing a special tribunal on Syria.

Your Excellency, we present to you the outcome document of the workshop (see enclosure).

(Signed) Abdulrahman **Mustafa**
President
National Coalition of Syrian Revolutionary
and Opposition Forces

* Available from https://www.sana.sy/?p=733959.

Enclosure

Workshop on Law No. 10 of 2018

Held on 17-18 April 2018

At the invitation of the Syrian National Coalition

and in cooperation with the Day After organization

A technical, legal workshop that was attended by a number of real estate,

administrative, constitutional,

legal, and technical experts and professionals

Workshop on Law No. 10 of 2018

And its effects on the Syrian people

Results and outcomes of the workshop:

1- Legitimacy and legality of Law No.10

Law No. 10 was issued by a de facto authority that significantly and even completely lacks legitimacy because of its practices in the face of the popular uprising that stripped it of all legitimacy to rule. The Assad regime confronted the popular uprising with death, destruction, war crimes, and violations representing callous disregard for human values and international law. These practices have prompted the international community, represented by its UN institutions and through the political and legal positions of the majority of world countries to challenge the Assad regime's legitimacy and recognize the Syrian National Coalition as the legitimate representative of the Syrian people. They also led to widespread recognition that power in Syria should be transferred to a Transitional Governing Body (TGB). The Assad regime has continued to this day to commit war crimes and violate international law and international resolutions, especially the Geneva Communique of 2012 and UN Security Council resolution 2254. The latest of these war crimes has been the use of chemical weapons against the people in the town of Douma with the aim of bringing them to their knees and eventually forcing them out of their homes.

The behavior and actions of the Assad regime have also undermined its legitimacy to enact new laws and decrees, many of which were violated by the very regime that issued them. This makes its legitimacy to introduce new laws and legalizations largely flawed and even makes such laws null and void.

Despite its complete loss of legitimacy, the Assad regime continues to adopt new laws and legalizations as a de facto authority. These legalizations and decrees included ones that encroach on the basic rights of the individual and even his property, which makes it imperative they are legally challenged and refuted by legal means and human rights laws in general.

Attempts to challenge and refute these laws and decrees should not be understood as conferring legitimacy on the Assad regime, which is a de facto authority lacking any legitimacy. Rather, these attempts are being

made out of the sense of duty to challenge the flaws in the laws, legislations, and decrees the Assad regime has issued based on the legal system it recognized and even within the constitutional rules the Assad regime issued itself despite its deeply flawed constitution. The workshop seeks to expose the contradiction between the provisions and purpose of Law No. 10 and between the legal structure recognized by the Assad regime itself.

Major flaws in Law No. 10 and its violation of the 2012 Constitution:

a) The constitutional flaws in the formation of The Preliminary Committee to Assess the Value of Property: It is a committee representing an exceptional judicial body which constituted a departure from the jurisdiction of the judiciary in the resolution of disputes. The formation of this committee also risks encroaching on the individual's rights and undermine the role of the judiciary.

   This flaw risks depriving citizens of the legal right to litigation as it implicitly considered the Committee a stage of litigation and stipulated that the citizen has the right to appeal. Moreover, Law No. 10 has denied the citizen the right to challenge the decisions that will be made by the Committee as it considered them unappealable.

b) Law No.10 legitimizes confiscation of individual property as most of its provisions will eventually lead to the forcible transfer of the ownership of the property to the state in view of the complicated procedures for the submission of title deeds and the tight timeframe surrounding the law as well as restricting the ability of the submission of title deeds to the fourth-degree relatives.

c) Compulsory Acquisition Without Compensation. Based on provisions of Law No. 10, all that is needed for re-zoning such as roads, squares, parks, parking lots, schools, police stations, hospitals, fire stations, temples, public libraries, cultural centers, playgrounds and all public facilities will be expropriated without paying compensation.

   This represents an explicit constitutional violation as expropriation of private property for public use can only be done after owners are fairly compensated.

2- The dangers of this law in terms of its content, timing, and effects:

With regards to its content, and despite the fact that its provisions are deeply flawed, such as leaving some terms without definition, the new legalization was neatly drafted to suit the purpose for which it was issued, which is to consolidate demographic change.

As for the timing, which is the most important, the law deliberately ignored the fact that millions of Syrians have fled to outside the country or have been internally displaced, It also ignored the fact that millions more are on the regime's wanted list or were killed, detained, forcibly disappeared, or have gone missing. Moreover, the new legalization ignored the security situation which makes it almost impossible for property owners to meet the tight timeframe surrounding, let alone the complicated procedures preventing their arrival to prove ownership.

3- Legal, political, and humanitarian implications of law No. 10:

In terms of the consequences, the new legalization will lead to the expropriation of individual's property in favor of the state and other sides that the new legalization did not identify. These sides can enter into partnerships with the Assad regime's administrative units in return for winning regulatory shares in the area targeted by re-zoning, which is a very serious issue. This will pave the way for transferring the ownership of the confiscated property from the original owners to companies and institutions with dubious political objectives that would replace the original owners with groups of people of a sectarian nature.

The ill-intent and hidden objectives of this legalization are abundantly clear as it is targeted at zones that are already regulated without giving reasons for such step. The new legalization does not identify the side with a mandate to issue executive instructions, thus leaving the door open for further encroachment on private ownership when it will take effect.

4- Strategies and defenses in the face of this legalization and other procedures and laws:

To counter such measure, there is a need to focus on the following:

a) To challenge the Assad regime's legitimacy to issue these laws and procedures and refute them under international law and international resolutions.

b) To prove the unconstitutionality of these laws and actions even under the regime's legal system and even according to the constitution which was adopted in 2012.

c) This law risks leading directly to mass forced displacement and large-scale demographic change, which constitute a war crime.

d) This legalization represents an encroachment on one of the fundamental rights, which is the right to ownership in accordance with the Universal Declaration of Human Rights whose Article 17 stated the following:

   1- Everyone has the right to own property alone as well as in association with others.

   2- No one shall be arbitrarily deprived of his property.

e) 5- This legalization affects the rights of all Syrians on all Syrian territory.

f) The enactment of this legalization will prevent the return of the displaced people and refugees whose property will be expropriated, which will leave them and their children without the incentive to return home in the future.

g) Reconstruction must not be intended to serve the plans for demographic change. It must begin only after the return of the displaced people and the completion of a political transition. This matter is consistent with the orientations of some influential countries. (Warning of the role of the United Nations such as in Homs under the name of restoration and removal of debris).

h) To focus on the necessity to protect the cultural identity and heritage as well as archaeological sites which are undergoing falsification and distortion by Iran using the Assad regime which serves the Iranian interests.

5-Recommendations:

a) To set a legal, technical committee by the Syrian National Coalition with the aim of preparing a comprehensive legal and technical dossier on the real estate laws and legalizations the Assad regime have introduced since 2011.

   Measures should be taken to make use of previous international experiences and examples, especially the Bosnian experience and the provisions of the Dayton Agreement concerning the preservation of the property of the displaced people and the consideration of the legal acts aimed at ethnic cleansing as null and void.

The legal, technical committee should comprise legal experts and specialists who worked in the departments of municipalities, city councils, directorates of antiquities, and real estate registers as well as real estate judges. The committee will be tasked with preparing a technical report on Law No. 10 of 2018 and Decree No. 66 of 2012 and others as well with looking into how its implementation will contribute to achieving the regime's goals. The committee will also be tasked with documenting the procedures and actions aimed at bringing about demographic change before and during the revolution and as well as holding a special workshop on this subject.

b) To call upon the Syrian National Coalition to take action at the political and legal level in the international fora to preserve the Syrians' rights to own property as well as to confront all subsequent measures by the regime.

c) To request that the Syrian Negotiations Commission include this grave issue and its consequences in any future negotiations and formula for political solution in Syria by introducing provisions ensuring the preservation and return of the rights of the displaced people. The Commission should also seek to nullify all the effects of the Assad regime's granting of citizenship and property to foreigners with the aim of serving the Iranian project in the region.

The Commission must seek to clarify to the international community and UN institutions that such legislations risk preventing the return of refugees who have lost their property and land which is an essential part of their sense of belong to their homeland.

d) To declared legal and political position as well as to consider whoever is involved in these laws and legalizations as a partner in the crimes of demographic change. To declare that those involved in such crimes will be hold responsible for participating in the demographic change operations.

e) What applies to these measures by the Assad regime apply to the other de facto authority, namely the so-called Self-management which is also responsible for mass forced displacement and the confiscation of property and rights of the displaced persons.

f) To request that the Syrian National Coalition organize large-scale campaigns in coordination with civil society organizations as well as Syrian and international human rights organizations in the face of procedures aimed at changing the demographic landscape in Syria.

g) To request that the Syrian National Coalition's Legal Committee work on the establishment of a mechanism to offset the effects of such legislations and prosecute the Assad regime and its partners for these crimes against a fundamental human right.

h) To organizing an awareness-raising campaign to warn Syrian citizens of the dangers and consequences of Law No. 10.

i) To warn the international community that the immediate goal of this law and previous real estate procedures and laws are aimed at paving the way for bringing about a demographic change in favor of Iranian-linked groups. The Iranian-led settlement process has already begun to manifests itself in some major cities in Syria such as Damascus, Homs and Deir Ezzor. (For example, in Damascus, especially in the area stretching from east of Mazza road, known as the Razzi orchards to Sayeda Zeinab and Husseiniya areas as well as Darayya. Procedures have already begun to transfer of ownership for the benefit of the Iranian government and groups associated with it).

The procedures taken by the Assad regime since 2011 are only an extension of its approach to use real estate laws as a means to achieve sectarian goals and serve Iran's interests and plans to impose various forms of control over specific areas in Syria. The Assad regime finds in destruction and displacement an opportunity to accelerate this approach and change the face and the composition of Syria's major cities, which will enable Iran to take control over the present and future of Syria via non-military means. These measures certainly aim to prevent the return of millions of displaced persons and the confiscation of property and rights of those who live in the areas targeted by the new legalization. This legalization has political implications that are aimed at reaping the fruit of the mass forced displacement and the destruction of whole cities and towns.